

DAVID J. HERNANDEZ & ASSOCIATES
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26 Court Street, Suite 2707
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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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JOSEPH ESCOBAR,

Plaintiff,

COMPLAINT IN A CIVIL ACTION

CIVIL ACTION NO.:

-against-

MENDEZ TRUCKING INC, and RICHARD
GUTIERREZ,

Defendants.
-----X

Plaintiff, JOSEPH ESCOBAR, for his complaint, by his attorneys, DAVID J.

HERNANDEZ & ASSOCIATES, upon information and belief, respectfully alleges as follows:

PRELIMINARY STATEMENT

1. This is a civil action for personal injuries suffered by Plaintiff, JOSEPH ESCOBAR, against Defendants, MENDEZ TRUCKING INC and RICHARD GUTIERREZ
2. This action arises out of a motor vehicle accident that occurred on July 12, 2016, when the vehicle owned by Defendant, MENDEZ TRUCKING INC, and operated by Defendant, RICHARD GUTIERREZ, struck Plaintiff's vehicle from the rear, causing Plaintiff to suffer severe, grievous, and permanent personal injuries.

JURISDICTION AND VENUE

3. This Court has original jurisdiction over this action under 28 U.S.C. § 1332, in that the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00) and Plaintiffs are citizens of states which are different from the states where Defendants

are incorporated and have their principal place of business.

4. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) and (2). Defendants, MENDEZ TRUCKING INC and RICHARD GUTIERREZ, are residents of the District of New Jersey in that they are subject to the personal jurisdiction of the United States District Court for the District of New Jersey. Furthermore, a substantial part of the events giving rise to this claim occurred in Secaucus, New Jersey, in the County of Hudson, which falls within the jurisdiction of this Court.

JURY DEMAND

5. Plaintiffs respectfully demand a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38(b).

PARTIES

6. Plaintiff, JOSEPH ESCOBAR, is an individual and citizen of the State of New York.
7. Defendant, MENDEZ TRUCKING INC is a New Jersey Corporation whose principal place of business location is Belleville, New Jersey. MENDEZ TRUCKING INC owned, managed maintained, inspected and by and through their duly authorized agent, employee, workman and/or servant, operated and controlled a certain motor vehicle involved in the accident hereafter described.
8. Defendant, RICHARD GUTIERREZ, is an individual and citizen of the State of New Jersey.

FIRST CAUSE OF ACTION: NEGLIGENCE **(ALL DEFENDANTS)**

9. Plaintiff repeat, reiterates and realleges each and every allegation contained in those paragraphs of the complaint marked and designated "1" through "8" inclusive, with the same force and effect as if hereinafter set forth at length.

10. That at all times hereinafter mentioned, the defendant, MENDEZ TRUCKING INC, was the registered title owner of a certain 2013 Kens motor vehicle bearing New Jersey license plate number "AP279K".
11. That at all times hereinafter mentioned, the Defendant, MENDEZ TRUCKING INC, through its agents and/or employees operated a certain 2013 Kens motor vehicle bearing New Jersey license plate number "AP279K".
12. That at all times hereinafter mentioned, the Defendant, MENDEZ TRUCKING INC, through its agents and/or employees controlled a certain 2013 Kens motor vehicle bearing New Jersey license plate number "AP279K".
13. That at all times hereinafter mentioned, the Defendant, MENDEZ TRUCKING INC, through its agents and/or employees managed a certain 2013 Kens motor vehicle bearing New Jersey license plate number "AP279K".
14. That at all times hereinafter mentioned, the Defendant, MENDEZ TRUCKING INC, through its agents and/or employees maintained a certain 2013 Kens motor vehicle bearing New Jersey license plate number "AP279K".
15. That at all times hereinafter mentioned, the Defendant, RICHARD GUTIERREZ, operated a certain 2013 Kens motor vehicle bearing New Jersey license plate number "AP279K" with the knowledge, permission and consent of the defendant, MENDEZ TRUCKING INC.
16. That at all times hereinafter mentioned, the Defendant, RICHARD GUTIERREZ, controlled a certain 2013 Kens motor vehicle bearing New Jersey license plate number "AP279K" with the knowledge, permission and consent of the Defendant, MENDEZ TRUCKING INC.

17. That at all times hereinafter mentioned, the defendant, RICHARD GUTIERREZ, managed a certain 2013 Kens motor vehicle bearing New Jersey license plate number “AP279K” with the knowledge, permission and consent of the Defendant, MENDEZ TRUCKING INC.
18. That at all times hereinafter mentioned, the Defendant, RICHARD GUTIERREZ, maintained a certain 2013 Kens motor vehicle bearing New Jersey license plate number “AP279K” with the knowledge, permission and consent of the Defendant, MENDEZ TRUCKING INC.
19. That on July 12, 2016, the New Jersey Turnpike, adjacent to the Toll Plaza at Exit 16, was and still is a public thoroughfare within the County of Hudson, City of Secaucus, State of New Jersey.
20. That on July 12, 2016, the Defendant, RICHARD GUTIERREZ, was operating a certain 2013 Kens motor vehicle bearing New Jersey license plate number “AP279K”, with the full consent of Defendant, MENDEZ TRUCKING INC, at the New Jersey Turnpike, County of Hudson, City of Secaucus, State of New Jersey.
21. That on July 12, 2016, the Plaintiff, JOSEPH ESCOBAR, was in a certain 2003 Nissan Maxima motor vehicle bearing New York license plate number “HHA9343”, at the New Jersey Turnpike, County of Hudson, City of Secaucus, State of New Jersey.
22. That on said date, at or about the above-mentioned location, the motor vehicle owned by MENDEZ TRUCKING INC and operated by RICHARD GUTIERREZ, struck Plaintiff’s vehicle from the rear thereby causing serious injuries to Plaintiff, JOSEPH ESCOBAR, as result of the joint and concurrent negligence, carelessness and

recklessness of the Defendants.

23. That by reason of the foregoing, Plaintiff, JOSEPH ESCOBAR, sustained severe and serious personal injuries, was caused to suffer severe physical pain and mental anguish, was obliged to and did expend large sums of money for medical and hospital expenses, was confined to hospital, bed and home, missed time from work and was incapacitated from attending his usual activities.
24. That the aforesaid occurrence and resulting injuries to Plaintiff, JOSEPH ESCOBAR, are due solely to the carelessness, recklessness, culpable conduct and negligence of the defendants, RICHARD GUTIERREZ and MENDEZ TRUCKING INC, without any carelessness, recklessness, culpable conduct or negligence on the part of the Plaintiff, JOSEPH ESCOBAR.
25. That the negligence, carelessness, and recklessness of the Defendants as aforesaid was the proximate and but-for-cause of Plaintiff's injuries.
26. That as a result of the negligence, carelessness, and recklessness of the Defendants as aforesaid, Plaintiff, JOSEPH ESCOBAR, sustained severe and protracted personal injuries, was incapacitated from pursuing his normal tasks, experienced great pain and suffering, incurred medical expenses, incurred hospital expenses, and will incur future medical and hospital expenses, all to his detriment and loss in an amount that exceeds the jurisdictional limits set forth in 28 U.S.C. § 1332.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand upon Defendants:

- a) Actual, compensatory, and statutory damages; b) punitive damages as allowed by law; c) an award of attorneys' fees as allowed by law; d) an award of taxable

costs; and e) any and all such further relief as this Court deems just and proper.

Dated: Brooklyn, New York
April 8, 2017

DAVID J. HERNANDEZ & ASSOCIATES



BY: DAVID J. HERNANDEZ, ESQ.

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